THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.20493 OF 2005

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Dated: 29-11-2005

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Between

Madla Shivaiah Kumar, S/o. Shivaiah, Occ: Business, R/o. 2-71/1,
D.S. choultry, Balanagar, Cyberabad, Hyderabad.

...PETITIONER

AND

The Commissioner of Police, Cyberabad, Hyderabad and others.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the respondents in harassing him by interfering with the civil dispute and false claims made by the third respondent and in the process forcing him to visit the police station and also execute a sale deed in favour of the third respondent, as illegal and arbitrary.

It is the case of the petitioner that the third respondent falsely claims that the petitioner entered into an agreement of sale to sell his property in favour of the third respondent for a sale consideration of Rs.1,15,000/-. The petitioner is still in possession of the said premises. On the allegation that the petitioner has not executed the sale deed,
at the instance of the third respondent, the second respondent is harassing and pressurizing the petitioner to execute the sale deed and making him to come police station without there being any complaint against him.

Counter has been filed wherein the second respondent submits that he never called the petitioner to the police station and pressurized him to execute the sale deed at any point of time in favour of the third respondent. He further submits that the third respondent filed a report on 15.09.2005 against the petitioner, based on which he registered a case in Cr.No.338 of 2005 under Sections 448 and 509 IPC.

Learned counsel for the petitioner submits that no offence is made out even under Sections 448 and 504 IPC as the petitioner is the owner and possessor of the said property and the question of trespassing into his own premises does not arise.

As the petitioner has not questioned the action of the respondents in registering the said crime, I am of the opinion that no relief can be granted to him in this writ petition and in view of the specific averment in the counter that police never called the petitioner to the police station and pressurized him to execute the sale deed,
the writ petition is dismissed with a liberty to the petitioner to question action of the respondents in registering the said case against him.

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V. ESWARAIAH, J

November 29, 2005

DSK